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CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON DE 19899

In re Application of: HILLER, Margit, et al.

U.S. Application No.: 10/579,164

PCT No.: PCT/EP2004/012787

International Filing Date: 11 November 2004

Priority Date: 17 November 2003

Attorney's Docket No.: 13838-00005-US

For: METHOD FOR PRODUCING FLEXOGRAPHIC
PRINTING FORMS BY THERMAL
DEVELOPMENT

DECISION ON PETITION
UNDER 37 CFR 1.182

This decision is issued in response to applicants' 06 June 2006 submission of a declaration in which the name of the first inventor has been changed, treated herein as a petition under 37 CFR 1.182 to correct the name of this inventor. Deposit Account No. 03-2775 will be charged the required petition fee.

BACKGROUND

On 11 November 2004, applicants filed international application PCT/EP2004/012787. The international application claimed a priority date of 17 November 2003, and it designated the United States. On 02 June 2005, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB"). The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 17 May 2006.

On 12 May 2006, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a translation of the international application into English.

On 06 June 2006, applicants filed the declaration considered herein. The declaration identified the first inventor as "Margit Teltschik (former Hiller)." The name of record for this inventor, as set forth on the published international application, is Margit HILLER.

DISCUSSION

Section 605.04(b) of the Manual Of Patent Examining Procedure ("MPEP") states that:

Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from

the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 35 U.S.C. 1.182 together with an appropriate petition fee.

In this case, the surname of the first inventor is listed as "HILLER" on the published international application and as "Teltschik (former Hiller)" on the declaration. This is more than a mere typographical error or a phonetic misspelling of the applicant's name. Accordingly, the submission of this declaration has been treated as a petition under 37 CFR 1.182 to correct the name of record for this inventor. For such a petition to be grantable, MPEP § 605.04(c) states that "the petition must include an appropriate petition fee and a statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a copy of the court order." Applicants are also "strongly encouraged to submit an application data sheet (37 CFR 1.76) showing the new name."

Here, applicants' submission included the authorization to charge Deposit Account No. 03-2775 for required fees. Based on this authorization, the Deposit Account will be charged the requisite petition fee of \$400 (as well as the \$130 surcharge for filing the declaration later than thirty months after the priority date). However, applicants have not submitted the required statement from the inventor (or court order) confirming the name change and the procedure whereby the name was changed (for example, by marriage).

Because applicants have failed to submit all the requirements for a grantable petition, correction of the inventor's name on the present record is inappropriate. Accordingly, the declaration filed 06 June 2006, which identifies the first inventor as Margit TELTSCHIK, is defective for failure to properly identify the inventors of record herein.

It is also noted that the declaration filed 06 June 2006 consists of one copy of pages 1, 2 and 3, and two different copies of page 4. The document therefore appears to be a compilation of two separately executed declarations, and as such is not in a form acceptable under 37 CFR 1.497. See MPEP § 201.03(II)(B): "Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration." Any materials submitted in response to this decision must include complete copies of the declarations executed by each of the inventors herein.

CONCLUSION

Applicants' petition under 37 CFR 1.182 is **DISMISSED** without prejudice. The declaration submitted by applicants on 06 June 2006 is defective for failure to properly identify the inventors of record.

In addition, the declaration is defective in that it appears to be an unacceptable compilation of two declarations.

Any request for reconsideration on the merits must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any such response must include the statement required for a grantable petition under 37 CFR 1.182 regarding the change of the inventor's name and the procedure whereby the change of name was effected, as discussed above and in the MPEP, as well as complete copies of the declarations executed by the inventors herein. Such submission should also include a corrected application data sheet that lists the correct name for the first inventor.

Failure to file a proper response in a timely manner will result in **ABANDONMENT** of the application. Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459